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October 30, 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, D.C. 20554

RE: Ex Parte Meeting, CC Docket No. 98-147, Deployment of Wireline Services Offering Advanced Telecommunications Capability

Dear Ms. Salas:

On Thursday, October 29, 1998, Ava Kleinman, Michael Pfau, and I met with Jason Oxman, Jonathan Askin, Brent Olsen, Michael Pryor, Maryanne McCormick, Daniel Shiman, Elizabeth Nightingale, and Staci Pies of the Common Carrier Bureau's Policy and Program Planning Division, and Whitey Thayer of the Accounting Safeguards Division. The purpose of the meeting was to review AT&T's position on the unbundling of loops for the provision of advanced telecommunications services, the efficient use of collocation space in ILEC central offices and remote terminals, and its belief that the separate affiliate proposal outlined in the notice of proposed rulemaking is not sufficient to prevent the Bell companies from favoring their own affiliate.

Two copies of this Notice are being submitted to the Secretary of the FCC in accordance with Section 1.1206(a)(2) of the Commission's rules.

Sincerely,

Attachments

cc: Jason Oxman
Jonathan Askin
Brent Olsen
Michael Pryor
Maryanne McCormick
Daniel Shiman
Elizabeth Nightingale
Staci Pies
Whitey Thayer

Separate Affiliate Concerns

Deployment of Wireline Services Offering
Advanced Telecommunications Capability

CC Docket No. 98-147

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Main Points

- The FCC proposal establishes insufficient criteria to render the ILEC affiliate a non-ILEC under Section 251(h)

- The FCC's proposed safeguards are insufficient to establish the affiliate as a non-ILEC

The Proposed Advanced Services Affiliate is Merely an ILEC Alter Ego

- The proposed advanced services affiliate is an ILEC "successor or assign"

- The proposed affiliate would be wholly owned by the ILEC -- it remains under full control of the ILEC and enjoys ILEC funding, brand, assets and goodwill; it is not "truly separate" from the ILEC

- To define the affiliate as other than a "successor and assign" would eviscerate the intent of Section 251(h) and allow the ILECs to evade their 251(c) obligations
    - insulate services from resale
    - insulate network elements from unbundling
    - create price squeezes

The Proposed Advanced Services Affiliate is a Comparable Carrier

- The proposed affiliate will enjoy exclusive use of the ILEC brand
- The proposed affiliate will be the ILEC's advanced services arm in the ILEC's territory

Section 272 Safeguards are Inadequate to Justify Deeming an ILEC Affiliate a Non-ILEC

- Section 272 safeguards were established by Congress to govern BOC provision on in-region interLATA services after the BOC met the 271 checklist requirements

- These safeguards were not intended to be the benchmark for "separation" of an ILEC's local network operations, and plainly do not set any separation standard for ILEC in-region operations prior to 271 approval

At a Minimum, the Proposed Separation Rules Must be Strengthened

- ILECs must obtain prior approval to establish a data affiliate
- The data affiliate must have a meaningful measure of outside ownership
    - comments suggest 20% to 50%
- Disclosure obligations must be tightened:
    - Triggered when ILEC intends to establish affiliate

At a Minimum, the Proposed Separation Rules Must be Strengthened (cont.)

- Disclosure obligations (cont.):
  - All transactions disclosed from date of incorporation of affiliate
  - Posting of all transactions and relevant detail

- Performance measurements must be required to demonstrate compliance with non-discrimination requirements

At a Minimum, the Proposed Separation Rules Must be Strengthened (cont.)

- The same separation requirements should be applied to all ILECs regardless of size
- The FCC should not signal a lessening of ILEC obligations before demonstrated compliance -- no automatic sunset
- ILEC affiliate should not be permitted to resell its parent's services
  - resale defeats the purpose of establishing a separate affiliate
  - resale sets the stage for coordinated action and price squeeze
- Virtual collocation must be prohibited

The ILEC's Alter Ego

- Any transfer of UNEs to the affiliate will render the affiliate a "successor or assign"
  - Even "*de minimis*" transfers do not allow evasion of the ILEC's 251(c) obligations
    - the FCC lacks the forbearance authority to permit "*de minimis*" transfers
  - Transfers to the affiliate should be non-discriminatory; non-affiliated CLECs must have an opportunity to obtain the same assets
  - If the ILEC's intellectual property rights cannot be extended to CLECs, they also may not be extended to the affiliate

Final Points

- Advanced services carry voice as well as data; the FCC's separate affiliate proposal is a "side door" for the provision of all local services outside of section 251(c)

- The FCC has not addressed the affiliate's provision of in-region interLATA services

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Collocation and Loop Unbundling

Discussions Embodied in CC Docket 98-147

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Collocation

National guidelines and rules applicable to collocation are needed now to achieve the following:

- Add Efficient Collocation Options
- Eliminate Needless Limitations on Cross-Connection
- Eliminate Unnecessary Restrictions Upon Equipment
- Assure Nondiscrimination in Space Availability
- Provide for Effective Monitoring of Collocation Performance

It is more efficient to address common issues and implement national solutions rather than negotiate/arbitrate/litigate in each state for each CLEC.

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Collocation

Add Efficient Physical Collocation Options

Cageless Collocation - permits a CLEC to own, install, and maintain equipment placed in any available Central Office space that is conditioned for power and HVAC, without requiring that the collocated equipment be enclosed within a cage

- Advantages:
  - Space is not consumed by cages
  - Space preparation time is minimized
  - Cost of deployment is only for essential work
- Concerns Expressed:
  - Security

Availability cannot be tied to onerous conditions otherwise much of the benefits are lost

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Collocation

Add Efficient Physical Collocation Options

ILECs' Security Concerns Are Overstated:

- Reasonable security can be instituted using:
  - Clear labeling of equipment
  - Locked cabinets
  - Identification cards for technicians, with sign-in at manned sites and mandatory notification of dispatch to unmanned sites
- Further steps are possible but not likely to be necessary:
  - Surveillance cameras
  - Unescorted third party contractors, selected by the CLEC but certified by the ILEC, subject to reasonable technical competency, bonding and insurance requirements
  - State-enforced consequences for security violations

Overstated security concerns cannot become a tool for limiting local competition -- there is no evidence that CLEC technicians are inadequately trained, careless or malicious.

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Collocation

Eliminate Needless Limitations on Cross-Connection

- Unnecessary limitations upon means for cross-connection reduce available space and increase costs
  - Eliminate Mandatory Point of Termination (POT) Bays
  - Permit Copper Entrance Facilities
  - Crossbox-to-Crossbox Cross-Connection at Remote Terminals Is Technically Feasible
  - CLECs Should Be Permitted to Specify the Media Used to Connect the MDF and a CLEC's Collocation Space

Commission need to make it clear that incumbent may not unreasonably limit a CLEC's ability to interconnect its own equipment or to connect with equipment of another CLEC regardless of whether the equipment is contiguous or within the same cage.

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Collocation

Eliminate Unnecessary Restrictions on Equipment

- **All equipment that is used and useful for interconnection and access to unbundled network elements should be permitted**
  - No equipment should automatically be excluded from collocation
  - The distinction between switching and transmission functions and between circuit switching and data networking is blurring
  - No mandatory equipment standards, beyond NEBS Level 1 compliance, should be imposed on collocated equipment

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Collocation

Assure Nondiscrimination in Space Availability

- The limited availability of collocation space requires rules to assure nondiscriminatory treatment of all potential users.

  - **Acquisition and Reservation**
  - **Establish Mandatory Steps that Precede Denial of Physical Collocation**
  - **Establish Methods to Validate Denial**
  - **Provide for Advance Notice**

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Collocation

Provide for Effective Monitoring of Collocation Performance

- Beyond basic rules applicable to collocation, a reasonable set of performance measurements are required to monitor whether competitors are being afforded a reasonable opportunity to compete
  - Average response interval for collocation requests
  - Average interval to provide collocation arrangements
  - Percent due dates met for collocation arrangements
- Results need to be properly defined and appropriately disaggregated

LCUG SQM Version 7.0 provides an excellent basis for defining and disaggregating performance.

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Loop Unbundling

- Unbundled loops are fundamental to the deployment of advanced data service as these loops are bottleneck facilities
- The current loop definition does not adequately address the needs of advanced data service providers
- The impacts of the deployment of both "fiber to the curb" and loop carrier must be addressed if competitive advanced data service offerings are to flourish

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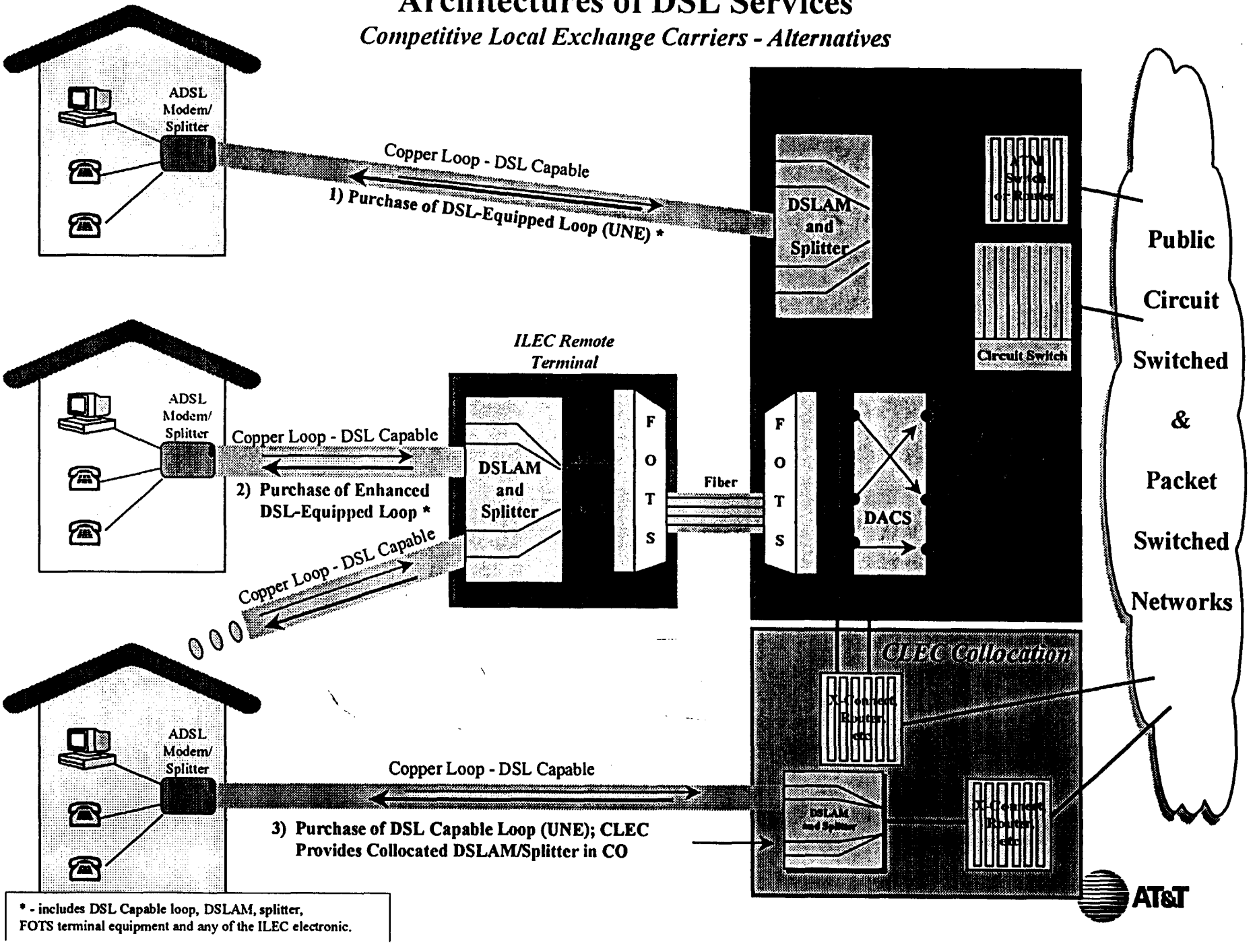
Architectures of DSL Services

Competitive Local Exchange Carriers - Alternatives



* - includes DSL Capable loop, DSLAM, splitter, FOTS terminal equipment and any of the ILEC electronic.

Loop Unbundling

- The current loop definition needs to be subdivided into three separate loop configurations
  - Basic Loop: a transmission facility capable of transmitting communications, in the voice band, between the incumbent's central office switching element(s) and the network interface device at the customer premises
  - xDSL Capable Loop: a basic loop that is stripped of data transmission degrading equipment, so that the loop's electrical characteristics will permit the transmission of communications both within the voice band and within one or more modulated data channels in frequency ranges above the voice band
  - xDSL Equipped Loop: a basic loop that includes all necessary transmission enhancing equipment within the local network, such as a DSLAM and splitters, to enable the delivery of communications in both the voice band and one or more derived data channels transmitted above the voice band, when the retail customer provides compatible transmission enhancing equipment at the subscriber's premises

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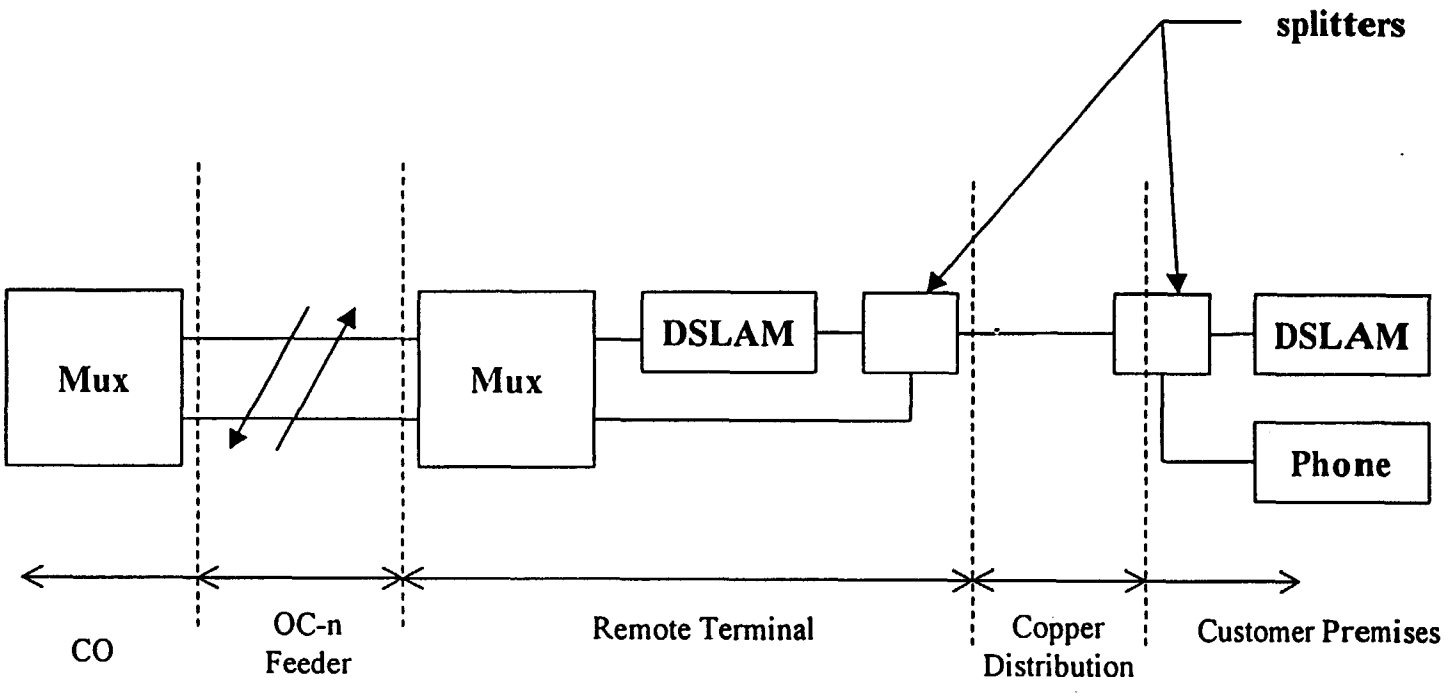
splitters
Mux
Mux
DSLAM
DSLAM
Phone
CO
OC-n
Feeder
Remote Terminal
Copper
Distribution
Customer Premises

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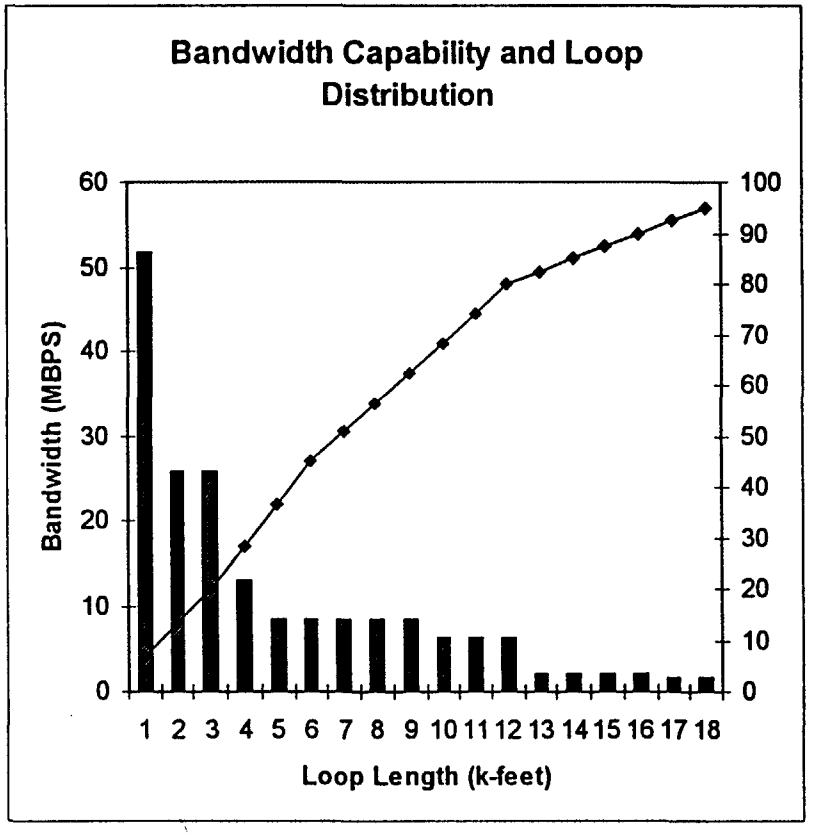

Sources:

- **Bandwidth capability by loop length - ADSL Forum General Tutorial**
- **Loop Length Distribution - BOC Notes on the LEC Networks - 1994 Distribution (p. 12-1)**

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Loop Unbundling

- ILECs assert a general lack of collocation space in remote terminals, therefore it is reasonable to conclude CLECs may not be capable of deploying their own DSLAMs or, for that matter, interconnecting to "short copper" in a timely manner
- ILECs say there are current limitations upon usable collocation space in Central Offices, therefore it is reasonable to conclude CLECs may not be capable of deploying their own DSLAMs for use with xDSL capable loops in a timely manner
- In such cases, availability of an xDSL equipped UNE loop is essential or the CLECs ability to provide advanced services will be severely impaired or totally precluded

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